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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,348	01/23/2004	David L. Schulte JR.	SC 069	5774

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EXAMINER

KOHNER, MATTHEW J

ART UNIT

PAPER NUMBER

3653

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/764,348

Applicant(s)

SCHULTE ET AL.

Examiner

Matthew J. Kohner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

Applicant has cancelled claims 1-25 and added new claims 26-45.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 43-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 43 depends from claim 42 which recites at least one screen assembly comprising:  
a frame with a first frame end spaced apart from a second frame end by two opposed  
spaced apart cross-member including a first side and a second side,  
screening material on the frame,  
a plurality of crossmembers spaced apart and extending from the first side to the second  
side ...

Claim 43 recites the screen assembly having:  
a support including four interconnected sides including two pairs of sides, a first pair with  
a first side and a second side and a second pair with a third side and a fourth side ...  
the support having generally screening material thereon, ...  
a plurality of spaced apart longitudinal crossmembers extending between ...

It is unclear the difference between the support and the frame.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26-33 and 37-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,927,511 to Riddle et al. (hereinafter "Riddle") in view of US Patent No. 3,849,961 to Gwynne (hereinafter "Gwynne").

In regard to claims 26-27, Riddle discloses a screen assembly for a vibratory separator, the screen assembly comprising:

a frame (36) with a first frame end spaced apart from a second frame end by two opposed spaced-apart sides including a first side and a second side,

screening material (72, 74, 76) on the frame,

a plurality of crossmembers (46, 48, 50, 52) spaced apart and extending from the first side to the second side, each crossmember of the plurality of crossmembers connected to the first side and the second side,

each crossmember of the plurality of crossmembers have at least one elongated flat member (see Fig. 3),

Riddle does not disclose that at least one elongated flat member has at least one series of openings there through, and the at least one series of openings extends along substantially all of said length.

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However, Gwynne discloses a truss (10) wherein openings (31) have been extruded from the truss in order to reduce the weight (col. 4, lines 63-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the frame of Riddle by including a series of openings, as taught by Gwynne, in order to make the frame lighter.

In regard to claims 28-29, Gwynne discloses triangular openings and inverted triangular openings (see Fig. 8).

In regard to claim 30, Riddle discloses rods (60).

In regard to claims 31-33, Riddle discloses side opening cut out portions (66).

In regard to claim 37-38, Riddle discloses a plurality of layers of screening material (col. 5, lines 57-67).

In regard to claims 39 and 40, Riddle discloses the cross-members are attached to the sides (See Fig. 3). While the means of attachment is not specifically disclosed, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a recess to attach the cross-member.

In regard to claim 41, Riddle discloses a vibratory separator.

In regard to claim 42, Riddle discloses a method for treating material with a vibratory separator including the above mentioned features.

In regard to claims 43-45 Riddle discloses a crowned deck vibrating shaker (col. 1, line 10; see also col. 1, lines 55 et seq.)

Claims 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riddle et al. in view of Gwynne and further in view of US Patent No. 4380494 to Wilson (hereinafter "Wilson").

While Riddle does disclose crossmembers which include at least one elongated flat member wherein the at least one elongated flat member is two of said members, Riddle does not disclose a truss-shaped. However, truss-shaped members are known in the screen art for supporting a screen. Wilson discloses V-shaped truss-like crossmembers (100) to support the screen. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the frame of Riddle by making the crossmembers truss shaped, as taught by Wilson, in order to make the frame lighter.

In regard to claim 16, Wilson discloses spring 40.

In regard to claim 17-18, Wilson discloses a V-shaped truss crossmember is a support wire.

### ***Response to Arguments***

Applicant's arguments filed July 18, 2006 have been fully considered but they are not persuasive. Applicant has argued that, "Gwynne at Col. 1, line 63-67 does not teach or suggest the use of openings 'in order to reduce weight.'" (Applicant's remarks page 2). Examiner acknowledges that the column number of the citation was incorrectly listed as column 1, instead of column 4. However, the reference clearly states at column 4, lines 63-67, "Further, the openings 31 reduce the weight of the chord and truss substantially below that of wood trusses of similar dimensions ..."

Applicants have further argued that one of ordinary skill in the art would not have thought about reducing the weight of Riddles frame. Examiner submits that Gwynne's teaching gives the motivation for modifying a truss to include a series of holes. While this advantage

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might not be the same advantage or purpose as Applicant's, it has been held that a different purpose or advantage can still be motivation for a combination (*In re Graf*, 145 USPQ 197 (CCPA 1965); *In re Dillon* 919 F.2d 688, 16 USPQ 1897 Fed. Cir. 1990) (en banc).

In regard to Applicant's argument regarding Wilson's assemblies being made of rod and wire and not flat elongated members, Riddle already teaches flat elongated members. Wilson merely teaches the truss shape.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kohner whose telephone number is 571-272-6939.

The examiner can normally be reached on Mon-Fri 9-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on 571-272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Matthew J. Kohner  
Examiner  
Art Unit 3653

mjk

  
PATRICK MACKEY  
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